COMMISSION IMPLEMENTING REGULATION (EU) 2021/865

of 28 May 2021

entering a name in the register of protected designations of origin and protected geographical indications ('Rooibos'/'Red Bush' (PDO))

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ([1]), and in particular Article 52(3)(a) thereof,

Whereas:

(1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, the application from South Africa to register the name 'Rooibos'/'Red Bush' as protected designation of origin (PDO) was published in the *Official Journal of the European Union* ([2]).

(2) On 7 September 2020 the Commission received the notice of opposition and the related reasoned statement of opposition from the United Kingdom. The Commission forwarded the notice of opposition and the reasoned statement of opposition sent by United Kingdom to South Africa on 16 September 2020.

(3) The Commission examined the opposition sent by the United Kingdom and found it admissible. The opposition claims that registration of the name 'Rooibos'/'Red Bush' does not comply with the conditions laid down in Article 5 and 7(1) of Regulation (EU) No 1151/2012 as the proposed description of the product and of raw materials are inconsistent. The opposition claims further that the proposed rules concerning labelling of 'Rooibos'/'Red Bush' are not specific enough and in contradiction to conditions set out in Regulation (EU) No 1169/2011 of the European Parliament and of the Council ([3]).

(4) By letter of 22 September 2020 the Commission invited the interested parties to engage in appropriate consultations to seek agreement among themselves in accordance with their internal procedures.

(5) South Africa and the United Kingdom reached an agreement, which was communicated by South Africa to the Commission on 11 November 2020, within the prescribed deadline.

(6) South Africa and the United Kingdom concluded that protection of the designation 'Rooibos'/'Red Bush' (PDO) should be granted with some modifications to the single document, including consistent reference throughout the document to ten flavours, the references to aspelathin and nothofagin being expanded to make reference to the fact that it will be controlled according to the South African GI protection at origin as well as revised rules concerning labelling of the product.

(7) As it complies with the provisions of Regulation (EU) No 1151/2012 and EU legislation, the content of the agreement concluded between South Africa and the United Kingdom should be taken into account.

(8) On 7 September 2020 the Commission received the notice of opposition and the related reasoned statement of opposition from the Swiss Association of Tea, Spices and related Products (IGTG).

([1]) OJ L 343, 14.12.2012, p. 1.
([2]) OJ C 190, 8.6.2020, p. 46.
([3]) Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).

(9) The Commission examined the opposition sent by the IGTG and found it inadmissible as none of the grounds provided in the Article 10(1) of Regulation (EU) No 1151/2012 has been substantiated in the reasoned statement submitted by the IGTG. By letter of 4 December 2020 the Commission informed the IGTG by that it will not send to the IGTG an invitation to start appropriate consultations with South Africa. By letter of 8 December 2020 addressed to the Commission the IGTG withdrew its opposition against the registration of the designation 'Rooibos'/'Red Bush' (PDO).

(10) Accordingly, the designation of origin 'Rooibos'/'Red Bush' (PDO) should be entered into the register. The consolidated version of the single document should be published for information,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Rooibos'/'Red Bush' (PDO) is registered.

The name in the first paragraph identifies a product from Class 1.8. Other products listed in Annex I to the Treaty (spices etc.). The consolidated single document is set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 May 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

'ROOIBOS'/'RED BUSH'

EU No: PDO-ZA-2427 – 21.8.2018

PDO (X) PGI ()

1. **Name(s) [of PDO or PGI]**

'Rooibos'/'Red Bush'

2. **Member State or Third Country**

South Africa

3. **Description of the agricultural product or foodstuff**

3.1. *Type of product [listed in Annex XI]*

Class 1.8. Other products listed in Annex I to the Treaty (spices etc.)

3.2. *Description of product to which the name in (1) applies*

The name of 'Rooibos'/'Red Bush' can only be used to refer to the dried leaves and stems of 100 % pure 'Rooibos'/'Red Bush' – derived from *Aspalathus linearis* and that has been cultivated or wild-harvested in the geographic area as described in this application.

'Rooibos'/'Red Bush' is presented in two forms: a) oxidised and b) green (unoxidised) dried leaves and stems of *Aspalathus linearis*.

(a) In the case of oxidised dried leaves and stems of *Aspalathus linearis*, 'Rooibos'/'Red Bush' has a distinctive colour that ranges from light brown, yellow to a shiny brick-red colour. It may also have some lighter coloured sticks (dried pieces of stem) mixed with the rest of the product. The moisture level of 'Rooibos'/'Red Bush' is below 10 %.

(b) Green (unoxdised) 'Rooibos'/'Red Bush' is the unoxidised dried leaves and stems of the *Aspalathus linearis* plant. Any sign of browning or oxidation is absent from green (unoxidised) 'Rooibos/Red Bush'. Green (unoxidised) 'Rooibos'/'Red Bush' leaves have a dominant light green colour and it includes reddish brown thin stem and white woody pieces. The moisture level of green (unoxidised) 'Rooibos'/'Red Bush' is below 5 %.

The flavour and taste of 'Rooibos'/'Red Bush' is determined by a human sensoric test which is conducted by a trained tester. The flavour and taste of different batches of 'Rooibos'/'Red Bush' may differ but through the analysis of a large sample set, the following flavours have been proven to be present in 'Rooibos'/'Red Bush' to differing degrees.

Flavour	Sweet	Honey
		Caramel
	Fruity	Citrus
		Berry
		Apricot Jam
	Woody	Bushy/Stemmy
		Smokey/Burnt
	Floral	Fynbos
		Perfume
	Spicy	Cinnamon

Taste and mouthfeel	Basic tastes	Sweet
		Bitter
		Sour
	Mouthfeel	Soft and smooth
		Astringent

3.3. *Feed (for products of animal origin only) and raw materials (for processed products only)*

The only raw material for 'Rooibos'/'Red Bush' is the freshly harvested leaves and stems of *Aspalathus linearis*.

It contains between 0,02 and 1,16 % of aspalathin and up to 0,4 % nothofagin. Aspelathin and nothofagin will be controlled at origin according to the South African GI protection.

3.4. *Specific steps in production that must take place in the identified geographical area*

During the production of 'Rooibos'/'Red Bush' the following steps must take place in the identified geographical area:

(a) Seeds of the plant *Aspalathus linearis* is gathered by local seed gathers, often from ant heaps. The gatherers then supply the seeds to farmers. This is an age-old tradition still being implemented today and an essential part Rooibos cultivation as it is known today

(b) It is commercially cultivated or grows naturally in the wild.

(c) It is harvested from the cultivated fields (either mechanically or by hand) or from the wild (by hand only).

(d) It is processed and dried at a tea court. The tea court may be on or off-farm, but it must be in the designated area.

3.5. *Specific rules concerning slicing, grating, packaging, etc. of the product the registered name refers to*

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3.6. *Specific rules concerning labelling of the product the registered name refers to*

'Rooibos'/'Red Bush' may be blended with teas, infusions and other products, whether or not for human consumption. The labelling of such products must conform with the rules applicable to labelling of products in the territory where the product is marketed.

4. Concise definition of the geographical area

The geographical area of production, drying and oxidation of 'Rooibos'/'Red Bush' is the following:

(a) In the Western Cape Province the local municipalities of Bergrivier, Breede Valley, Cape Agulhas, Cederberg, City of Cape Town, Drakenstein, Langeberg, Matzikamma, Overstrand, Saldanha Bay, Stellenbosch, Swartland, Swellendam, Theewaterskloof and Witzenberg.

(b) In the Northern Cape Province the local Municipality of Hantam.

5. Link with the geographical area

Geographical area

The taste and specific composition of 'Rooibos'/'Red Bush' is directly related to the climate where it is grown. Cold wet winters, growth in spring and early summer and then maturity and polyphenol accumulation as the weather gets hotter and drier. It follows that, if *Aspalathus linearis* is grown in any other climate, it will not have the same characteristics as 'Rooibos'/'Red Bush' due to less polyphenol accumulation. In order to understand this causal relationship, it is important to understand the way in which *Aspalathus linearis* has adapted to the unique climate, soils and geography of this area.

The geographical area in which 'Rooibos'/'Red Bush' naturally grows is known for its hot, dry summers and cold wet winters. Indeed, on 27 October 2015 a temperature of 48,3 °C was measured in Vredendal; the highest October temperature ever measured on earth. The rainfall in this area ranges between 380 to 635 mm per year and precipitation is predominantly during the winter months with occasional showers in early summer and late autumn. The long, hot summer months are extremely dry. The soils in the area is derived from the Table Mountain Sandstone Complex resulting in nutrient poor, coarse, sandy soils with a pH between 4,5 to 5,5. Table Mountain Sandstone is made up predominantly of quarzitic sandstone laid down between 510 and 400 million years ago. It is the hardest, and most erosion resistant layer of the Cape Supergroup.

'Rooibos'/'Red Bush' has developed some unique characteristics (i.e. shape and coating of leaves, etc.) to adapt in this harsh climate. In addition to a network of lateral roots just below the soil surface that can utilize even light precipitation, the plant has a long tap root that reaches as deep as two meters and helps the plant find moisture and reach water during the dry summers. The lateral roots enables the plant to enhance phosphorus acquisition from the soil which is among the most phosphorous impoverished in the world.

One of the biggest secrets underlying to the adaption of 'Rooibos'/'Red Bush' in this harsh climate can be found in its symbiotic relationship with the nitrogen-fixating bacteria on its roots. As a legume, the bacteria on the roots of *Aspalathus linearis* convert nitrogen dioxide to biologically useful ammonia in a process known as nitrogen fixation. The plant absorbs the nitrogen and benefits from it in exchange for providing the bacteria with food. This process is common for legumes, but what is unique in the case of *Aspalathus linearis* is that the indigenous *bradyrhizobia* are naturally tolerant of acidity and the plant has some ability to modify its rhizosphere pH in order to promote symbiotic establishment and nutrient availability to plants growing in this otherwise infertile acidic soil. It has been reported in the literature that very few symbioses can tolerate such extremities of soil acidity and low nutrient stress whilst fixing high levels of nitrogen as exhibited by *Aspalathus linearis*.

Producers of 'Rooibos'/'Red Bush' have taken advantage of the hot and dry summers to naturally dry the harvested material. 'Rooibos'/'Red Bush' is harvested each year during the hot summers and is sun dried just after harvesting. The harsh sun, with the absence of rain, allows for natural drying of 'Rooibos'/'Red Bush' during which the process of oxidisation can be optimally controlled.

Human intervention

Although the Cape Floral Region (with its distinctive 'Fynbos' vegetation) is the smallest of the six Floral Kingdoms of the world, it is the most diverse and it is one of the most special places in the world for plants in terms of diversity, density and the number of endemic species. However, *Aspalathus linearis* is one of a limited number of plants which has made a successful transition from a wild to a cultivated crop and is one of relatively few economically important fynbos plants to date; the result of human intervention.

Almost 250 years ago Swedish naturalist Carl Thunberg reported that, during his travels in Africa in 1772, he met the local inhabitants and observed that they used 'Rooibos'/'Red Bush' as a beverage. 'Rooibos'/'Red Bush' leaves and stems were collected on the mountains and bunched into hessian bags that were carried down the steep slopes on the backs of donkeys. The basic 'Rooibos'/'Red Bush' processing methods that are still in use today (first cut and bruise the 'Rooibos'/'Red Bush' leaves and stems, then 'sweat' or cure the tea in heaps and finally then spread it out to dry in the sun) were developed at that time.

Around 1930 a local Clanwilliam doctor and nature lover Le Fras Nortier became interested in 'wild bush tea' and started experimenting with 'Rooibos/Red Bush'. It was difficult to find 'Rooibos'/'Red Bush' seeds (due to their extremely small size) and Nortier asked the local people, some of them his patients, to search for seeds in the sandy soils and collect some for him. A Khoi woman brought him a matchbox filled with seeds and later Nortier learnt her secret. The woman would follow ants that were dragging 'Rooibos'/'Red Bush' seeds to their nests. She then broke open the nests to collect seeds, always leaving some for the ants to survive. This way of collecting seeds is still being used by some seeds collectors.

Looking for a way to propagate the seeds, Nortier discovered that the seeds would only germinate if they were cracked open first – imitating the effect of mountain fires. Nortier cultivated the first plants on the Klein Kliphuis farm near Clanwilliam. He learnt that the seeds should be sown in January and that the best time to transplant the tiny seedlings is just after heavy rain when more rain is due. Nortier also inspired and encouraged local farmers to start cultivating 'Rooibos'/'Red Bush'.

These practices of seed collection and scouring of seeds are still being used today and *Aspalathus linearis* is produced under dry land conditions as the plant is adapted to dry, hot summers. These environmental conditions influence the chemical composition of 'Rooibos'/'Red Bush', in particular the level and type of polyphenols found in the final product. 'Rooibos'/'Red Bush' producers have adapted their land management and cultivation practices to the harsh conditions of the region. For instance, fire cannot be used to clear areas for cultivation as it destroys the organic content of the soil. Furthermore, cover crops plays an important role during various stages of the cultivation process and minimum or conservation tillage is a common practice.

Harvesting takes place during the dry summer months of November to May and 20 % of the plant material must be left on the plant. The freshly harvested material must reach the tea court within 72 hours of being harvested and a mechanical cutter is used to reduce the stems and leaves so that they are between 1 and 10 mm in length. In the case of oxidised 'Rooibos'/'Red Bush' the freshly cut material is then exposed to the sun in row-like heaps on the concrete or rock surface of the tea court. The rows are wetted, the leaves bruised and the rows turned at regular intervals until the right consistency is reached after which it is spread thinly on the tea court to dry. In the case of unoxidised (green) 'Rooibos'/'Red Bush' the leaves and stems are thinly spread on the tea court straight after it was cut into 1-10 mm lengths.

The tea court process is often described as an art form and is one of the most critical parts of the 'Rooibos'/'Red Bush' production process with specific know-how and expertise required. The tea maker carefully watches the colour, texture and moistness of the tea until the desired soapy feel is attained. A typical method is to take a handful of the wet, bruised tea and squeeze it until the hand forms a fist, and if the moisture level is correct, a tiny trickle of juice runs through the gaps between the base of the fingers.

Expert graders evaluate the quality of 'Rooibos'/'Red Bush' according to a number of factors, including the colour of the dry and infused leaves, the intensity, colour and clarity of the infusion, as well as the flavour and taste. Trained sensory panels are used to judge taste and flavour. A sensory wheel has been developed and is a valuable tool to facilitate communication among 'Rooibos'/'Red Bush' producers, processors, grading experts, marketers, flavour houses, importers and consumers. To aid interpretation of the descriptors a preliminary sensory lexicon for some of the descriptors have also been developed.

Specificity of the product

The unique sensory characteristics (or flavour and mouth-feel) of 'Rooibos'/'Red Bush' has been described above. These descriptors are based on analysis of a large sample set and captures the sensory fingerprint of 'Rooibos'/'Red Bush'.

These unique sensory characteristics of 'Rooibos'/'Red Bush' can be ascribed to the complex phenolic chemistry of *Aspalathus linearis*. The flavonoid composition of 'Rooibos'/'Red Bush' is unique in that it contains aspalathin and aspalalinin, as well as the rare compounds nothofagin and enolicphenylpyruvic acid glucoside. Whereas most of the flavonoids occur ubiquitously in the plant kingdom, until now aspalathin has only been detected in *Aspalathus linearis*, creating it's unique sensory characteristics.

It was noted in the previous section that the use of the dried leaves and stems of 'Rooibos'/'Red Bush' as a tea was first documented almost 250 years ago. Since then its fruity, sweet taste with caffeine free low tannin status has resulted in it being a cultural icon of South Africa. Surveys conducted in 2005 showed that 'Rooibos'/'Red Bush' tea was one of the ten most frequently consumed foods in an informal settlement in South Africa.

Reference to publication of the specification

(the second subparagraph of Article 6(1) of this Regulation)

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